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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/804,065	03/19/2004	Hideki Tamaki	KAS-201	8245	
24956	7590 05/12/2006		EXAM	INER	
MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.			SHEEHAN	SHEEHAN, JOHN P	
SUITE 370	NAL ROAD		ART UNIT	PAPER NUMBER	
ALEXANDR	NA, VA 22314		1742		
			DATE MAILED: 05/12/2006	DATE MAILED: 05/12/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

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	Application No.	Applicant(s)	
	10/804,065	TAMAKI ET AL.	
Office Action Summary	Examiner	Art Unit	
	John P. Sheehan	1742	
The MAILING DATE of this communication app Period for Reply	pears on the cover sheet with the	correspondence address	
A SHORTENED STATUTORY PERIOD FOR REPL' WHICHEVER IS LONGER, FROM THE MAILING D Extensions of time may be available under the provisions of 37 CFR 1.1 after SIX (6) MONTHS from the mailing date of this communication. If NO period for reply is specified above, the maximum statutory period of Failure to reply within the set or extended period for reply will, by statute Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATIO 36(a). In no event, however, may a reply be ti will apply and will expire SIX (6) MONTHS from to, cause the application to become ABANDON	N. imely filed in the mailing date of this communication (35 U.S.C. § 133).	
Status			
1) Responsive to communication(s) filed on 06 M	larch 2006.		
2a) This action is FINAL . 2b) ☐ This	action is non-final.		
3) Since this application is in condition for alloward	•		is
closed in accordance with the practice under E	Ex parte Quayle, 1935 C.D. 11, 4	.53 O.G. 213.	
Disposition of Claims			
4) Claim(s) 2,3,6,7,14 and 17-19 is/are pending in	n the application.		
4a) Of the above claim(s) is/are withdraw	wn from consideration.		
5) Claim(s) is/are allowed.			
6) Claim(s) 2, 3, 6, 7, 14 and 17-19 is/are rejected	d.		
7) Claim(s) is/are objected to.			
8) Claim(s) are subject to restriction and/o	r election requirement.		
Application Papers			
9)☐ The specification is objected to by the Examine	er.		
10)☐ The drawing(s) filed on is/are: a)☐ acc	epted or b) objected to by the	Examiner.	
Applicant may not request that any objection to the	drawing(s) be held in abeyance. Se	ee 37 CFR 1.85(a).	
Replacement drawing sheet(s) including the correct		•	(d).
11)☐ The oath or declaration is objected to by the Ex	kaminer. Note the attached Office	e Action or form PTO-152.	
Priority under 35 U.S.C. § 119			
12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of:	priority under 35 U.S.C. § 119(a	a)-(d) or (f).	
1.☐ Certified copies of the priority document	s have been received.		
2. Certified copies of the priority document		tion No	
3. Copies of the certified copies of the prior	rity documents have been receiv	ed in this National Stage	
application from the International Bureau	u (PCT Rule 17.2(a)).		
* See the attached detailed Office action for a list	of the certified copies not receiv	ed.	
Attachment(s)	_		
Notice of References Cited (PTO-892)	4)		
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	5) D Notice of Informal	Patent Application (PTO-152)	
Paper No(s)/Mail Date	6) Other:		

Application/Control Number: 10/804,065 Page 2

Art Unit: 1742

DETAILED ACTION

Claim Rejections - 35 USC § 103

- 1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 2. Claims 2, 3, 6, 7, 14 and 17 to 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Hara et al. (O'Hara, US Patent Application Publication 2005/0139295).
- 3. O'Hara teaches a nickel based superalloy for use as turbine parts (paragraph 0001) having a composition that, with the exception of hafnium, overlaps the instantly claimed alloy (Abstract and paragraph 0021). O'Hara teaches an upper limit for hafnium of 1 % while applicants' claims recite a lower limit for hafnium of 1.1%. O'Hara also teaches the y-y' structure as recited in applicants' claims (paragraphs 0024 and 0025).
- 4. O'Hara and the claims differ in that the hafnium content taught by O'Hara does not overlap the hafnium content recited in the instant claims.

However, one of ordinary skill in the art at the time the invention was made would have considered the invention to have been obvious because with the exception of the hafnium content, the alloy proportions taught by O'Hara overlap the instantly

Art Unit: 1742

claimed proportions and therefore, with the exception of the hafnium content, are considered to establish a prima facie case of obviousness. It would have been obvious to one of ordinary skill in the art to select any portion of the disclosed ranges including the instantly claimed ranges from the ranges disclosed in the prior art reference, particularly in view of the fact that;

"The normal desire of scientists or artisans to improve upon what is already generally known provides the motivation to determine where in a disclosed set of percentage ranges is the optimum combination of percentages", In re Peterson 65 USPQ2d 1379 (CAFC 2003).

Also, In re Geisler 43 USPQ2d 1365 (Fed. Cir. 1997); In re Woodruff, 16 USPQ2d 1934 (CCPA 1976); In re Malagari, 182 USPQ 549, 553 (CCPA 1974) and MPEP 2144.05.

Regarding the hafnium content, it is the Examiner's position that O'Hara's upper hafnium limit of 1% and the instantly claimed lower hafnium content of 1.1% are very similar and closely approximate each other, therefore one of ordinary skill in the art would have expected the alloy taught by the reference and the instantly claimed alloy to have the same properties. See in re Peterson, 65 USPQ2d 1379, 1382, citing *Titanium Metals Corp. v. Banner*, 227 USPQ 773, 779 and MPEP 2144.05.

"a prima facie case of obviousness exists where the claimed ranges and prior art ranges do not overlap but are close enough that one skilled in the art would have expected them to have the same properties. Titanium Metals Corp. of America v.Banner, 778 F.2d 775, 227 USPQ 773 (Fed.Cir.1985)(Court held as proper a rejection of a claim directed to an alloy of "having 0.8%nickel,0.3%molybdenum,up to 0.1%iron,bal ance titanium" as obvious over a reference disclosing alloys of 0.75%nickel,0.25%molybdenum,balance titanium and 0.94%nickel,0.31%molybdenum,bal ance titanium.).

Art Unit: 1742

Response to Arguments

5. Applicant's arguments filed March 6, 2006 have been fully considered but they are not persuasive.

6. For the reasons set forth above in the newly statement of the rejection based on O'Hara applicants' arguments are not persuasive.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John P. Sheehan whose telephone number is (571) 272-1249. The examiner can normally be reached on T-F (6:45-4:30) Second Monday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on (571) 272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

John P. Sheehan Primary Examiner Art Unit 1742